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SUPREME COURT OF THE UNITED STATES.

No. 111.

JAMES HAYNES, PLAINTIFF IN ERROR,

vs.

THE YATES COUNTY BANK.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MICHIGAN.

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GIDEON, print.

Writ of error.

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America, to the judges of the circuit court of the United States, for the seventh circuit and district of Michigan, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said circuit court of the United States, for the seventh circuit, and district of Michigan, before you, between the President, Directors, and Company of the Yates County Bank, and James Haynes, a manifest error hath happened, to the great damage of the said James Haynes, as by his complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right, and according to the law and custom of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this twenty-eighth day of July, in the year of our Lord one thousand eight hundred and fifty-three, and of the independence of the United States the seventy-eighth year.

[SEAL.]

JNO. WINDER, *Clerk.*

Bond.

SUPREME COURT OF THE UNITED STATES.

Know all men by these presents, that we, James Haynes and Eber Ward, second, both of the district of Michigan, are held and firmly bound unto the President, Directors, and Company of the Yates County Bank, their successors and assigns, in the sum of two hundred and fifty dollars, to be paid to the said President, Directors, and Company of the Yates County Bank, their successors and assigns; to which payment, well and truly to be made, we bind ourselves, and each of us jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this sixteenth day July, A. D. eighteen hundred and fifty-three.

Whereas James Haynes hath prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered by

the circuit court of the United States, for the seventh circuit, and district of Michigan, in a suit therein entitled, wherein the said James Haynes was defendant, and the said President, Directors, and Company of the Yates County Bank were plaintiffs:

Now, therefore, the condition of this obligation was such, that if the said James Haynes shall prosecute his said writ of error to effect, and answer all costs if he shall fail to make good his plea, then this obligation shall be void; otherwise the same shall remain and be in full force and virtue.

JAMES HAYNES, [SEAL.]
EBER WARD, 2D, [SEAL.]

In presence of—
WM. GRAY.

DISTRICT OF MICHIGAN, *ss.*

Eber Ward, second, being duly sworn, doth depose and say, that he owns real estate in said district to the value of two hundred and fifty dollars, over and beyond his debts and liabilities, and that the same is subject to execution.

EBER WARD, 2D.

Sworn and subscribed before me, this 16th day of July, A. D. 1853.
WILLIAM GRAY,
Notary Public, Wayne county, Michigan.

I hereby approve of the foregoing bond and the surety thereto.
ROSS WILKINS,
District judge.

July 28, 1853.

Pleas before the judges of the circuit court of the United States, for the seventh circuit, and district of Michigan, at the district court-room, in the city of Detroit, in said district, of the term of June, in the year of our Lord one thousand eight hundred and fifty-three.

Present: Honorable John McLean, one of the associate justices of the Supreme Court of the United States; Hon. Ross Wilkins, district judge.

In the case of

THE PRESIDENT, DIRECTORS, and Company of the Yates County Bank, plaintiffs,
vs.
JAMES HAYNES, defendant.

DISTRICT OF MICHIGAN, *ss.*

Be it remembered, that on the twenty-fifth day of October, in the year of our Lord one thousand eight hundred and fifty-two, the said "The President, Directors, and Company of the Yates County Bank, plaintiffs, by Barstow and Lockwood, their attorneys, came into the

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court aforesaid, before the judges thereof, in pursuance of the statute and the rules and practice of said court, and file their declaration against the said defendant, James Haynes, which said declaration is in the words and figures following, to wit:

Declaration.

DISTRICT OF MICHIGAN, *ss.*

The President, Directors, and Company of the Yates County Bank, a corporation located and doing business in the State of New York, plaintiffs in this suit, by Barstow and Lockwood, their attorneys, complain, according to the form of the rules of this court, pending for the commencement of suits, by declaration of James Haynes, who is a citizen of the State of Michigan, defendant in this suit, of a plea that he render to the said plaintiffs the sum of one thousand and fifty-nine dollars and thirty-one cents of debt which he owes to and unjustly detains from the said plaintiffs.

For that whereas the said plaintiffs, heretofore, to wit, on the twenty-eighth day of October, A. D. eighteen hundred and thirty-three, before the justices of the supreme court of judicature of the people of the State of New York, at the capitol, in the city of Albany, in the said State of New York, to wit, at Detroit, in the district aforesaid, as of the October term of the said supreme court, the said court being then and there a court of competent jurisdiction in the premises, by the consideration and judgment of the said supreme court, recovered against the said James Haynes and Henry Jacoby, as well the said sum of one thousand and twenty-one dollars damages, as also the sum of thirty-eight dollars and thirty-one cents for the costs and charges of the said plaintiffs by the said supreme court, before the justices thereof, then there adjudged to the said plaintiffs, as well for the damages of the said plaintiffs by them sustained, as for their costs and charges by them in their suit in that behalf expended, whereof the said defendant and said Jacoby were connected, as appears of record.

And the said plaintiffs aver, that the said Henry Jacoby is not an inhabitant of the State or district of Michigan, where this suit is brought, at the time of the commencement thereof.

And the said plaintiffs aver, that the said judgment still remains in full force and effect, not reversed, satisfied, or otherwise vacated, whereby an action hath accrued to the said plaintiffs to demand and have from the said defendant the said sum of money above demanded, together with his damages for the detention thereof; to the damage of the said plaintiffs of three thousand dollars, and therefore they bring suit, &c.

"BARSTOW & LOCKWOOD,
Plaintiffs' attorneys."

Plea.

And the said James Haynes, by Jed. P. C. Emmons, his attorney,

says, that there is not any record of the said supposed recovery in the said declaration mentioned, remaining in the said supreme court of judicature of the people of the State of New York, as in said declaration alleged; and this the said defendant is ready to verify. Wherefore he prays judgment, if the said plaintiff ought to have or maintain his aforesaid action thereof against him, this defendant, &c.

And for a further plea in this behalf, the said defendant says, that the said plaintiffs ought not to have or maintain their aforesaid action thereof against him, because he says that the said recovery of the said judgment in said declaration mentioned against said defendant did not take place within eight years next preceding the commencement of this suit. And this he is ready to verify. Wherefore he prays judgment if the said plaintiffs ought to have or maintain their aforesaid action against him.

"JED. P. C. EMMONS,
Defendant's attorney."

Replication.

And the said plaintiffs, by Barstow & Lockwood, their attorneys, as to the said plea of the said defendant by him first above pleaded, say that they ought not, by reason of any thing in that plea alleged, to be barred or precluded from having and maintaining their aforesaid action thereof against the said defendant, because they say that there is such a record of the said recovery remaining in the said court as the said plaintiffs have above, in their declaration, alleged. And this the said plaintiffs are ready to verify by the said record. And he prays that the said record may be inspected by the court here, &c.

And the said plaintiffs, as to the said plea of the said defendant, by him secondly above pleaded, say, that they ought not, by reason of any thing in that plea alleged, to be barred or precluded from having and maintaining their aforesaid action thereof against the said defendant, because they say that the said plaintiffs were, at the time of the accruing of the cause of action set forth in their said declaration, and thence hitherto and at all times, until within eight years previous to the commencement of this suit, have been beyond seas, to wit, in the State of New York; and this the said plaintiffs are ready to verify.

Wherefore the said plaintiffs pray judgment if they ought to be barred from having and maintaining their aforesaid action thereof against the said defendant, by reason of any thing in said plea alleged.

"BARSTOW & LOCKWOOD,
Plaintiffs' attorneys."

Demurrer to replication.

And the said defendants, as to the replication of the said plaintiffs to the said plea of the said defendant, by him secondly above pleaded, says, that the said replication of the said plaintiffs, and the matters therein contained in manner and form as the same are above pleaded and set forth, are not sufficient in law for the said plaintiffs to have or

maintain their aforesaid action thereof against the said defendant, and that the said defendant is not bound by law to answer the same; and this the said defendant is ready to verify. Wherefore, by reason of the insufficiency of the said replication in this behalf, the said defendant prays judgment if the said plaintiffs ought to have or maintain their aforesaid action thereof against him, &c.

And the said defendant, according to the rules and practice of this court, states and shows to the court here the following causes of demurrer in law to the said replication, that is to say:

1st. That the said plaintiffs being in the State of New York at the time of the accruing of the said alleged cause of action, and at all times until within eight years previous to the commencement of this suit, did not, and does not, take it out of the operation of the statute of limitations.

2d. The said replication is not in law a sufficient answer to the said plea, in that it does not allege that the said plaintiffs, from the time said pretended causes of action accrued, and until within eight years previous to the commencement of this suit, were without the United States, nor any other fact or facts that would bring it within any of the exceptions to the statutes of limitations in such case made and provided, or that in law constitute a good or sufficient answer to the said plea of the said defendant.

3d. The said replication is in other respects uncertain, informal, and insufficient.

"JED. P. C. EMMONS,
Attorney for def't."

Joinder in demurrer.

And the said plaintiffs say, that their said replication to the said second plea of the said defendant, and the matters therein contained in manner and form as the same are above pleaded, are sufficient in law for them, the said plaintiffs, to have and maintain their aforesaid action thereof against the said defendant; and this the said plaintiff is ready to verify and prove the same, as the court shall direct and award. Wherefore, inasmuch as the said defendant has not answered the said replication, nor hitherto in any manner denied the same, the said plaintiffs pray judgment and their debt aforesaid, together with their damages by them sustained on occasion of the detention thereof, to be adjudged to them, &c.

"BARSTOW & LOCKWOOD,
Plaintiffs' attorneys."

Judgment on demurrer.

And now at this day, to wit, on the twenty-seventh day of June, in the year of our Lord one thousand eight hundred and fifty-three, come the parties aforesaid, by their respective attorneys, and all and singular the premises aforesaid being seen by the court now here and fully under-

stood, and mature deliberation being thereupon had, it seemeth to the said court now here that the said demurrer of the said defendant to said plaintiffs' replication to said defendant's plea, and the matters in said plea, replication, and demurrer contained, are not sufficient in law to bar or preclude the said plaintiffs from having or maintaining their action aforesaid thereof against him, the said defendant. Wherefore the said plaintiffs ought to recover *his* debt and damages by occasion of the premises.

Final judgment.

Afterwards, to wit, on the thirtieth day of June, in the year of our Lord one thousand eight hundred and fifty-three, come the said parties, by their attorneys aforesaid. Whereupon the record aforesaid being inspected by the court now here, it sufficiently appears to said court that there is such a record of a recovery against the said defendant, James Haynes, at the suit of the said plaintiffs, the President, Directors, and Company of the Yates County Bank, as they have in their declaration alleged:

Therefore it is considered, that the said plaintiffs, the President, Directors, and Company of the Yates County Bank, do recover against the said defendant, James Haynes, the debt aforesaid, to one thousand and fifty-nine dollars and thirty-one cents, and also one thousand four hundred and fifty-eight dollars and thirty cents damages sustained by them on occasion of the detention of said debt, together with plaintiffs' costs of suit, taxed at thirty-nine dollars and seventy-five cents, adjudged to the said plaintiffs by the court now here with their assent. And the said defendant in mercy, &c.

Judgment signed June 30, A. D. 1853.

JNO. WINDER, *Clerk.*

DISTRICT OF MICHIGAN, *ss.*

I, John Winder, clerk of said court, do hereby certify the above and foregoing to be a true copy of the original record of judgment in the above cause, the same having been compared by me with said original, and is the whole of such original record.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said court, at Detroit, in said district, this fourteenth day of September, in the year of our Lord one thousand eight hundred and fifty-three, and of our independence the seventy-eighth.

[SEAL.]

JNO. WINDER, *Clerk.*

Citation.

UNITED STATES OF AMERICA, *ss.*

To the President, Directors, and Company of the Yates County Bank, greeting:

You are hereby cited and admonished to be and appear at a Su-

preme Court of the United States, to be holden at Washington on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States, for the seventh circuit, and district of Michigan, wherein James Haynes is plaintiff, and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this twenty-eighth day of July, in the year of our Lord one thousand eight hundred and fifty-three.

ROSS WILKINS,
District judge.

Service of the within citation is hereby admitted, this 17th day of November, 1853.

W. M. CLIVER,
Cashier Yates County Bank.

Assignment of errors.

SUPREME COURT OF THE UNITED STATES.

JAMES HAYNES, plaintiff in error,
vs.
THE PRESIDENT, DIRECTORS, and Company of the Yates County Bank, defendants in error.

Afterwards, to wit, on the fifth day of September, A. D. eighteen hundred and fifty-three, before the justices of the said Supreme Court of the United States aforesaid, at Washington aforesaid, comes the said James Haynes, plaintiff in error, by Emmons and Gray, his attorneys, and says: That in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit:

1st. That the said replication of the said defendant in error (plaintiff below) to the said second plea of the defendant below, and the matters therein contained, are not sufficient in law for the said defendants (plaintiffs below) to have or maintain their aforesaid action against the said plaintiff, and that there was error in the judgment of the court below deciding *that* the said replication and the said matters to be sufficient answer to said plea.

2nd. That the said replication, and the matters therein contained, show no fact or reason to take the claim of the plaintiffs below out of the operation of the statute of limitations, or which would bring the same within any of the exceptions to the said statute; and that there is error in the judgment of the court below deciding that the facts stated in the said replication were sufficient to take the case out of the operation of said statute.

3d. That there is error in the judgment of the court below overrul-

ing the demurrer to the said replication; that under the pleadings and the law applicable thereto, judgment ought to have been given sustaining said demurrer, and in favor of the defendants below against the plaintiffs below.

4th. That, as appears by the pleadings, the cause of action was barred by the statute of limitations, wherefore there was error in the judgment of the court below in overruling said demurrer.

5th. That by the record it appears that the judgment aforesaid, in the form aforesaid, was given in favor of the defendants in error against the plaintiff in error; whereas, by the law of the land, the said judgment ought to have been given for the plaintiff in error against the defendant in error. And the said James Haynes, plaintiff in error, prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, and that he may be restored to all things which he hath lost by reason of said judgment, &c.

EMMONS & GRAY,
Attorneys for plaintiff in error.

Joinder in error.

SUPREME COURT OF THE UNITED STATES.

JAMES HAYNES, plaintiff in error,
vs.
THE PRESIDENT, DIRECTORS, and Company of the Yates County Bank, defendants in error.

And hereupon afterwards, to wit, on the twenty-first day of December, in the year of our Lord one thousand eight hundred and fifty-three, come the said defendants in error, by Barstow & Lockwood, their attorneys, freely here into court and say, that there is no error, either in the record and proceedings aforesaid, or in giving the judgment aforesaid. And he prays that the said Supreme Court of the United States, before the aforesaid justices thereof now here, may proceed to examine as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error. And that the judgment aforesaid, in form aforesaid given, may be in all things affirmed, &c.

BARSTOW & LOCKWOOD,
Attorneys for defendant in error.

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SUPREME COURT OF THE UNITED STATES.

No. 114.

JAMES HAYNES, PLAINTIFF IN ERROR,

vs.

JAMES S. ANDREWS AND JAMES S. HUNT.

IN ERROR TO THE CIRCUIT COURT U. S., FOR THE DISTRICT OF MICHIGAN.

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GIDEON, print.

Writ of error.

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America, to the judges of the circuit court of the United States, for the seventh circuit and district of Michigan, greeting:

Because, in the record and proceedings, as also in the rendition of a judgment in a plea, which is in the said circuit court of the United States, for the seventh circuit and district of Michigan, before you, between James S. Andrews and James S. Hunt and James Haynes, a manifest error hath happened, to the great damage of the said James Haynes, as by his complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this twenty-eighth day of July, in the year of our Lord one thousand eight hundred and fifty-three, and of the independence of the United States the seventy-eighth year.

[SEAL.]

JNO. WINDER, *Clerk.*

Bond.

Supreme Court of the United States.

Know all men by these presents, that we, James Haynes and Eber. Ward, second, both of the district of Michigan, are held and firmly bound unto James S. Andrews and James S. Hunt, their executors or administrators, in the sum of two hundred and fifty dollars, to be paid to the said James S. Andrews and James S. Hunt, their executors or administrators, to which payment well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this sixteenth day of July, A. D. eighteen hundred and fifty-three.

Whereas, James Haynes hath prosecuted a writ of error to the Supreme Court of the United States, to reverse the judgment rendered by

the circuit court of the United States, for the seventh circuit and district of Michigan, in a suit therein entitled, wherein the said James Haynes was defendant, and James S. Andrews and James S. Hunt were plaintiffs:

Now, therefore, the condition of this obligation is such, that if the said James Haynes shall prosecute his said writ of error to effect, and answer all costs if he shall fail to make good his plea, then this obligation shall be void, otherwise, the same shall be and remain in full force and virtue.

JAMES HAYNES, [L. S.]
EBER. WARD, 2ND. [L. S.]

In presence of
WM. GRAY.

DISTRICT OF MICHIGAN, *ss.*

Eber. Ward, second, being duly sworn, doth depose and say, that he owns real estate, in said district, to the value of two hundred and fifty dollars, over and beyond his debts and liabilities, and that the same is subject to execution.

EBER. WARD, 2ND.

Sworn and subscribed before me, this 16th day of July, A. D. 1853.
WILLIAM GRAY,
Notary Public, Wayne county, Michigan.

I hereby approve of the foregoing bond, and the surety thereto. July 28, 1853.

ROSS WILKINS,
District Judge.

Pleas before the judges of the circuit court of the United States, for the seventh circuit and district of Michigan, at the district court-room, in the city of Detroit, in said district, of the term of June, in the year of our Lord one thousand eight hundred and fifty-three.

Present, honorable John McLean, one of the associate justices of the Supreme Court of the United States; honorable Ross Wilkins, district judge.

In the case of

JAMES S. ANDREWS and JAMES S. HUNT, plaintiffs,
vs.
JAMES HAYNES, defendant.

DISTRICT OF MICHIGAN, *ss.*

Be it remembered, that on the twenty-fifth day of October, in the year of our Lord one thousand eight hundred and fifty-two, the said

plaintiffs, James S. Andrews and James S. Hunt, by Barston & Lockwood, their attorneys, came into the court aforesaid, before the judges thereof, in pursuance of the statute and the rules and practice of said court, and file their declaration against the said defendant, James Haynes, which said declaration is in the words and figures following, to wit:

Declaration.

DISTRICT OF MICHIGAN, *ss.*

James S. Andrews and James S. Hunt, who are citizens of the State of New York, plaintiffs in this suit, by Barstow & Lockwood, their attorneys, complain, according to the form of the rules of this court pending for the commencement of suits, by declaration of James Haynes, who is a citizen of the State of Michigan, defendant in this suit, of a plea that he render to the said plaintiffs the sum of eight hundred and ninety-six dollars and fifty-four cents of debt, which he owes to and unjustly detains from the said plaintiffs.

For that, whereas the said plaintiffs heretofore, to wit, on the eleventh day of February, in the year of our Lord one thousand eight hundred and thirty-four, before the justices of the supreme court of judicature of the people of the State of New York, at the capitol, in the city of Albany, in the said State of New York, to wit, at Detroit, in the district aforesaid, of the January term of the said supreme court, the said court being then and there a court of competent jurisdiction in the premises, by the consideration and judgment of the said supreme court, recovered against the said James Haynes and Abner Merriam, as well the sum of eight hundred and forty-one dollars and five cents damages, as also the sum of fifty-five dollars and fifty-nine cents for the costs and charges of the said plaintiffs, by the said supreme court before the justices thereof, then there adjudged to the said plaintiffs, as well for the damages of the said plaintiffs by them sustained, as for their costs and charges by them in their suit in that behalf expended, whereof the said defendant and said Merriam were convicted, as appears of record.

And the said plaintiffs aver, that the said Abner Merriam is not an inhabitant of the State or district of Michigan, where this suit is brought at the time of the commencement thereof.

And the said plaintiffs aver, that the said judgment still remains in full force and effect, not reversed, satisfied or otherwise vacated, whereby an action hath accrued to the said plaintiffs to demand and have from the said defendant the said sum of money above demanded, together with his damages for the detention thereof, to the damage of the said plaintiffs of three thousand dollars, and therefore they bring suit.

BARSTOW & LOCKWOOD,
Plaintiffs' Att'ys.

Plea.

And the said defendant, by Jed. P. C. Emmons, his attorney, comes and says, that there is not any record of the said supposed recovery, in the said declaration mentioned, remaining in the said supreme court of judicature of the people of the State of New York, as the said plaintiffs have in his said declaration alleged. And this the said defendant is ready to verify: wherefore he prays judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against him, &c.

And for a further plea in this behalf, the said defendant says, that the said plaintiffs ought not to have or maintain their aforesaid action thereof against him, because, he says that the said recovery of the said judgment in said declaration mentioned against said defendant did not take place within eight years next preceding the commencement of this suit, and this he is ready to verify: wherefore he prays judgment if the said plaintiffs ought to have or maintain their aforesaid action thereof against him.

"JED. P. C. EMMONS,"
Defendant's Att'y.

Replication.

And the said plaintiffs, by Barstow & Lockwood, their attorneys, as to the said plea of the said defendant by him first above pleaded, say, that they ought not by reason of any thing in that plea alleged, to be barred or precluded from having and maintaining his aforesaid action thereof against the said defendant, because, they say that there is such a record of the said recovery remaining in the said court as the said plaintiffs have above in their said declaration alleged, and this the said plaintiffs are ready to verify by the said record. And they pray that the said record may be seen and inspected by the court here.

And the said plaintiffs, as to the said plea of the said defendant by him secondly above pleaded, say that they ought not, by reason of any thing in that plea alleged, to be barred or precluded from having and maintaining their aforesaid action thereof against the said defendant, because, they say that the said plaintiffs were, at the time of the accruing of the cause of action, set forth in their said declaration, and thence hitherto and at all times until within eight years previous to the commencement of this suit, have been beyond seas, to wit, in the State of New York, and this the said plaintiffs are ready to verify: wherefore the said plaintiffs pray judgment if they ought to be barred from having and maintaining their aforesaid action thereof against the said defendant, by reason of any thing in said plea alleged.

BARSTOW & LOCKWOOD,
Plaintiffs' Att'ys.

Demurrer to Replication.

And the said defendant, as to the replication of the said plaintiffs to

the said plea of the said defendant by him secondly above pleaded, says, that the said replication of the said plaintiffs, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law for the said plaintiff to have or maintain their aforesaid action thereof against the said defendant, and he, the said defendant, is not bound by law to answer the same, and this the said defendant is ready to verify: wherefore, by reason of the insufficiency of the said replication in this behalf, the said defendant prays judgment if the said plaintiffs ought to have or maintain their aforesaid action thereof against him, &c.

And the said defendant, according to the rules and practice of this court, states and shows to the court here the following causes of demurrer in law to the said replication, that is to say:

1st. That the said plaintiffs being in the State of New York at the time of the accruing of the said alleged cause of action, and at all times until within eight years previous to the commencement of this suit, did not and does not take it out of the operation of the statute of limitations.

2d. The said replication is not in law a sufficient answer to the said plea, in that it does not allege that the said plaintiffs from the time said pretended cause of action accrued, and until within eight years previous to the commencement of this suit, were without the United States, nor any other fact or facts that would bring it within any of the exceptions to the statute of limitations, in such cases made and provided, or that in law constitutes a good and sufficient answer to the said plea of the said defendant.

3d. The said replication is in other respects uncertain, informal, and insufficient.

JED. P. C. EMMONS,
Att'y for defendant.

Joinder in demurrer.

And the said plaintiffs say, that their said replication to the said second plea of the said defendant, and the matters therein contained, in manner and form as the same are above pleaded, are sufficient in law for them, the said plaintiffs, to have and maintain their aforesaid action thereof against the said defendant. And this the said defendant is ready to verify and prove the same, as the court shall direct and award.

Wherefore, inasmuch as the said defendant has not answered to said replication, nor hitherto in any manner denied the same, the said plaintiffs pray judgment and their debt aforesaid, together with their damages by them sustained on occasion of the detention thereof, to be adjudged to them, &c.

"BARSTOW & LOCKWOOD,"
Plaintiffs' Att'ys.

Judgment on demurrer.

And now at this day, to wit, on the twenty-seventh day of June, in the year of our Lord one thousand eight hundred and fifty-three, come the parties aforesaid, by their respective attorneys, and all and singular the premises aforesaid being seen by the court now here and fully understood, and mature deliberation being thereupon had, it seemeth to the said court, now here, that the said demurrer of the said defendant to said plaintiffs' replication to said defendant's plea, and the matters in said plea, replication and demurrer contained, are not sufficient in law to bar or preclude the said plaintiffs from having or maintaining their action aforesaid thereof against him, the said defendant, wherefore the said plaintiffs ought to recover his debt and damages by occasion of the premises.

Final judgment.

Afterwards, to wit, on the thirtieth day of June, in the year of our Lord one thousand eight hundred and fifty-three, come the said parties, by their attorneys aforesaid. Whereupon the record aforesaid being inspected by the court now here, it sufficiently appears to said court, that there is such a record of a recovery against the said defendant, James Haynes, at the suit of the said plaintiffs, as they have in their declaration alleged.

Therefore, it is considered that the said plaintiffs, James S. Andrews and James S. Hunt, do recover against the said defendant, James Haynes, the debt aforesaid, to eight hundred and ninety-six dollars and fifty-four cents, and also one thousand one hundred and fifty-three dollars and sixteen cents damages sustained by them on occasion of the detention of said debt, together with said plaintiffs' costs of suit, taxed at thirty-nine dollars and seventy-five cents, adjudged to the said plaintiffs, by the court now here, with their assent. And the said defendant, in mercy, &c.

Judgment signed June 30th, A. D. 1853.

(Signed) JOHN WINDER, *Clerk.*

DISTRICT OF MICHIGAN, *ss.*

I, John Winder, clerk of said court, do certify the above and foregoing to be a true copy of the original record of judgment in the above cause, the same having been compared by me with said original, and is the whole of such original record.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the said court, at Detroit, in said district, this fourteenth day of September, A. D. 1853.

[SEAL.]

JNO. WINDER, *Clerk.*

786.

Supreme Court of the United States.

JAMES HAYNES, plaintiff in error,
vs.
JAMES S. ANDREWS and JAMES S. HUNT,
defendants in error.

Afterwards, to wit, on the fifth day of September, A. D. eighteen hundred and fifty-three, before the justices of the said Supreme Court of the United States aforesaid, at Washington aforesaid, comes the said James Haynes, plaintiff in error, by Emmons & Gray, his attorneys, and says: That in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, to wit:

1st. That the said replication of the said defendant in error (plaintiff below) to the said second plea of the defendant below, and the matters therein contained, are not sufficient in law for the said defendants (plaintiffs below) to have or maintain their aforesaid action against the said plaintiff; and that there was error in the judgment of the court below deciding that the said replication and the said matters to be sufficient answer to said plea.

2d. That the said replication, and the matters therein contained, show no fact or reason to take the claim of the plaintiffs below out of the operation of the statute of limitations, or which would bring the same within any of the exceptions to the said statute, and that there is error in the judgment of the court below deciding that the facts stated in said replication were sufficient to take the case out of the operations of said statute.

3d. That there is error in the judgment of the court below overruling the demurrer to the said replication, that, under the pleadings and the law applicable thereto, judgment ought to have been given, sustaining said demurrer, in favor of defendants below against the plaintiffs below.

4th. That, as appears by the pleadings, the cause of action was barred by the statute of limitations, wherefore there was error in the judgment of the court below in overruling said demurrer.

5th. That by the record it appears that the judgment aforesaid, in the form aforesaid, was given in favor of the defendants in error against the plaintiffs in error; whereas, by the law of the land, the said judgment ought to have been given for the plaintiffs in error against the defendant in error; and the said James Haynes, plaintiff in error, prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, and that he may be restored to all things which he hath lost by reason of said judgment, &c.

EMMONS & GRAY,
Attorneys for plaintiff in error.